

OFFICIAL GAZETTE



GOVERNMENT OF GOA

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Goa Legislature Secretariat

LA/B/2073/1996

Report of the Select Committee on Bill No. 29 of 1995:— The Goa Advocates' Welfare Fund, Bill alongwith the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 9th August, 1996 is hereby published for general information in pursuance of the provisions of Rule 231 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

(BILL No. 29 of 1995)

A

BILL

to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the Advocates in the State of Goa.

Composition of the Select Committee

CHAIRMAN:

Shri Domnic Fernandes — Minister for Law & Judiciary.

MEMBERS:

1. Shri Krishna Kuttikar.
2. Shri Sadanand Malik.
3. Shri Digambar Kamat.
4. Shri Arecio D'Souza.
5. Smt. Fatima D'Sa.
6. Shri Aleixo Sequeira.
7. Dr. Carmo Pegado.

SECRETARIAT:

1. Shri A. B. Ulman, Secretary, Legislature.
2. Shri U. M. Desai, Under Secretary, Legislature.

3. Shri S. A. Narvekar, Section Officer.
4. Smt. Celiza Fernandes, Sr. Assistant, Legislature.

GOVERNMENT REPRESENTATIVES:

1. Shri B. S. Subbanna — Law Secretary.
2. Shri P. V. Kadnekar — Joint Secretary, Law.

Report of the Select Committee

1. The Chairman of the Select Committee to which Bill No. 29 of 1995 — The Goa Advocates' Welfare Fund Bill, 1995, was referred, having been authorised by the Committee to submit the report on its behalf, present its report with the Bill as amended by the Committee annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 12-12-1995 and referred to Select Committee on 14-12-1995. The Committee held in all 5 sittings namely on 9-1-1996, 16-2-1996, 14-6-1996, 21-6-1996 and 6-8-1996. As decided by the Committee the suggestions/comments were invited from the various Bar Associations by releasing a press note in the Goan Dailies, apart from issuing separate letters to the Associations in the State. However, the suggestions were received only from the Advocates Associations, Margao and Vasco da Gama.

3. The Committee visited Bombay between 28-6-1996 & 30-6-1996 and discussed the issues related to the scheme under the similar legislation existing in Maharashtra, with Advocate General of Maharashtra, the Secretary of the Bar Council of Maharashtra and the members including the Chairman of the Maharashtra Welfare Fund Board. The Committee was enlightened on the pros and cons of the related Bill considering the fact that the Bar Council of Maharashtra is also applicable to Goa.

4. Apart from this, the Chairman of the Committee visited separately to Cochin in Kerala on 13-7-1996 and discussed in detail on the related issues with the Advocate General of Kerala, Secretary Bar Council, the members of the Welfare Fund Board and the Chairman of the State Bar Council of Kerala.

5. The representatives of the various Advocates Associations in Goa were requested to be present during the Committee meeting to be held on 16-2-1996. However, the representatives of the North

Goa Association and the High Court Advocates Association attended the meeting.

6. The Committee has scrutinised and examined the suggestions/comments received from the Advocates Associations as well as the opinions of the representatives of the Association including the expert advice of the members of the Welfare Fund Board of Maharashtra & Kerala, who have been operating the relevant Act. During the clause by clause examination of the Bill, the Committee has taken into consideration the various aspects of the suggestions and accordingly draft report is prepared.

TITLE AND PREAMBLE

The Committee is of the view that the existing title of the Bill provides the scope so as to cover the welfare aspect of the Advocates those who become the members of the Fund and hence felt that the same is in order.

Clause - 2

The Committee decided to change the definition of "standing" so as to cover the advocates who have been enrolled with Bar Council and have been practising prior to the commencement of this Act.

Clause - 4

The amendment proposed to sub-clause (1) provides for the identification of the Board in tune with the title of the Bill. By amending the items of sub-clause (1) relating to the constitution of the Board the Committee has attempted in giving the representation to the various registered Bar Associations in Goa. It provides for the election of the treasurer from amongst the members of the Fund, besides the representation to the Finance Secretary or his nominee. By amending sub-section (2) the Board is conferred with the right of juridical entity.

Clause - 5

Since the provisions of nomination of the members has been substituted by the provisions of election in section 4, this section is amended accordingly and wherever provided in other provisions have also been done away with.

Clause - 8

This clause is modified so that filling up of casual vacancies whenever occur on the Board should be done by the respective Bar Associations.

Clause - 9 — Sub-Clause (2)

Quorum of the Board meeting is proposed to five instead of three members.

Clause - 12 — Sub-Clauses (h) and (i)

Powers are given to the treasurer with the Secretary so as to verify the accounts of the Bar Associations as well as preparing annual statement as regards to the transaction of business of the Board.

Clause - 17

While recognizing the Bar Associations the requirement of registration is done away with by incorporating the amendment therein so that only registered Bar Associations can apply for recognition.

Sub-Clause (6)

The prescribed fee to be accompanied with appeal is proposed to be raised from Rs. 100/- to Rs. 200/-.

Clause - 19 — Sub-Clause (2)

Amended so as to provide for the admission fee at flat rate of Rs. 300/- which is further provided to refund in the event of rejection of the application for admission to the membership of Fund in sub-section (4).

Sub-Clause (8)

New provision is inserted prescribing the annual contribution to be paid by the members of the Fund as per the number of years of practice at Bar, duly prescribed therein.

Clause - 21

New sub-clause (2) has been inserted in order to provide for the calculation of the period of practice of the advocates prior to the commencement of this Act so as to compute the same considering 4 years of their earlier practice as one year after the admission.

Clause - 22

This clause is suitably amended so as to augment the Welfare Fund by collecting an amount of Rs. 5/- as the stamp value to be affixed by the advocates on vakalatnama who is a member of the Fund without which no vakalatnamas are considered as valid.

Clause - 33 — Sub-Clauses (3) & (4)

These sub-clauses are deleted as the same are superfluous since the relevant Act has been in force in the State for effecting such provisions.

Clause - 34 — Sub-Clause (2)

This sub-clause is also superfluous.

This report was considered and adopted by the Committee.

Assembly Hall,

Panaji, 8th August, 1996.

SHRI DOMNIC FERNANDES
Minister for Law
Chairman

(Note.— Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined).

The Goa Advocates' Welfare Fund Bill, 1995

(Bill No. 29 of 1995)

A

BILL

to provide for the constitution of an Advocates' Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the Advocates in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Advocates Welfare Fund Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "Advocate" means a person whose name has been enrolled on the roll of Advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act, 1961 (Central Act XXV of 1961);

(b) "Advocates Act" means the Advocates Act, 1961 (Central Act XXV of 1961);

(c) "Goa Advocates Welfare Fund" or "Fund" means the fund constituted under section 3 and maintained under the provisions of this Act;

(d) "Bar Association" means an association of Advocates attached to any Court or any Tribunal or such other authority or person as is legally authorised to take evidence or to adjudicate or to decide any dispute in the State and recognised by the Board under section 17;

(e) "Bar Council" means the Bar Council of Maharashtra and Goa constituted under section 3 of the Advocates Act, 1961 (Central Act XXV of 1961);

(f) "Board" means the Goa Advocates Welfare Fund Board constituted under section 4;

(g) "cessation of Practice" in relation to an Advocate means discontinuance of practice by the Advocate by taking up any employment, trade, calling or other similar engagement or discontinuance of practice on account of death or disability;

(h) "dependents" means wife, husband, father, mother, unmarried daughter and minor children or such of them as exist;

(i) "Government" means the Government of Goa;

(j) "member of the Fund" means an Advocate who is admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;

(k) "nominee" means a person nominated in the prescribed manner by a member of the Fund to receive the amount, which may be due to the member, from the Fund in the event of his death before the amount is paid to him;

(l) "prescribed" means prescribed by regulations;

(m) "regulations" means regulations made by the Board under this Act;

(n) "retirement" means giving up of practice as an Advocate which is communicated to and recorded by the Bar Council;

(o) "stamp" means the Goa Advocates Welfare Fund Stamp printed and distributed by the Board under section 23;

(p) "standing" means the period of actual practice [after the commencement of this Act] from the date of enrollment as advocate and sanad obtained from the Bar Council or appropriate authority;

(q) "State" means the State of Goa;

(r) "suspension of practice" means voluntary suspension of practice as an Advocate [voluntarily] or suspension by the Bar Council for misconduct. [under the Advocates Act.]

CHAPTER II

Constitution and management of Advocates Welfare Fund

3. *Constitution of Fund.*— (1) The Government shall constitute a fund called the Goa Advocates Welfare Fund.

(2) There shall be credited to the Fund—

(a) an initial amount of rupees one lakh to be contributed by the Government;

(b) all the amounts to be contributed by the Bar Associations from the year 1995 onwards;

(c) any other contribution made by the Bar Association;

(d) any voluntary donation or contribution to the Fund made by the Bar Council of India or any other Bar Council or any Bar Association;

(e) any voluntary donation made to the Fund by any Advocate or his relatives;

(f) contributions paid by members of the Fund to the Fund under section [22] 19;

(g) all sums received from the Life Insurance Corporation of India on the death of any member of the Fund under any Group Insurance Policy;

(h) any profit or dividend from the Life Insurance Corporation of India in respect of policies of Group Insurance of the Members of the Fund;

(i) any interest or dividend or other return on any investment made of any part of the Fund.

4. *Constitution of Board.*— (1) There shall be a Board to be known as Goa Advocates Welfare Fund Board consisting of the following members, namely:—

(a) The Advocate-General, Goa State—Ex-Officio-Chairman.

(b) The Law Secretary to the Government — Ex-Officio.

[(c) The Director of Prosecution, Government of Goa—Ex-Officio.]

(c) Finance Secretary to Government or his nominee—Ex-Officio.

[d] (d) One representative from each registered Bar Association to be recommended by the Executive Council or Managing Committee of the Association concerned.

[(e) Three members to be nominated by the Government from amongst the members of the Fund.]

(e) One member to be elected from amongst the members of the Board, who shall be treasurer of the Board.

[d] (f) The Under Secretary (Law) to the Government—Ex-Officio Secretary.

(2) [The powers, functions and duties of the Board shall be as provided by this Act and by regulations.]

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property and shall by the said name, sue and be sued.

5. *Term of office of [nominated] members of Board.*— A person [nominated] elected or recommended as a member of the Board under clause (d) and (e) of sub-section (1) of section 4 shall hold office for [such period as may be prescribed] a period of four years or for the duration of his membership in the Bar Council, whichever is less, [unless he is removed under sub-section (2) of section 6 or he resigns his office and his resignation is accepted by the Board under section 7.]

6. *Disqualification and removal of [nominated] members.*— (1) A person shall be disqualified to be a [nominated] member, if he—

(a) is adjudged by a competent court to be of unsound mind;
or

(b) is adjudicated an insolvent and has not obtained his discharge; or

(c) is convicted of an offence which in the opinion of the Government involves moral turpitude; or

(d) has, in the opinion of the [Government] Board committed a breach of trust or where he is a member of the Fund and has committed persistent default in payment of his contribution to the Fund. [under section 22.]

(2) The [Government] Board may remove any [nominated] elected or recommended member, who is or has become disqualified under sub-section (1), from his office as a member of the Board:

Provided that no order removing any member shall be made unless that member [and the Board have] has been given an opportunity of being heard.

7. *Resignation by [nominated] an elected or recommended members.*— An [nominated] elected or recommended member may resign his office by giving [one] three month's notice in writing to the Board and on such resignation being accepted by the Board, the [nominated] elected or recommended member thereof shall be deemed to have vacated his office.

8. *Filling up of casual vacancies.*— A casual vacancy in the office of a [nominated] elected or recommended member occurring on account of death, resignation or removal of the member may be filled up, as soon as may be, by the executive Council or managing committee of the concerned registered Bar Association as the case may be [nomination of a person by the Government] under clause (d) and (e) of sub-section (1) of section 4 and the person so [nominated] elected or recommended as the case may be shall hold office so long as the member in whose place he is [nominated] elected or recommended would have been entitled to hold office, if the vacancy had not occurred.

9. *Meetings of Board.*— (1) The Board shall meet, at least once in three calendar months or more often if found necessary to transact business under this Act or the regulations made thereunder.

(2) [Three] Five members of the Board shall form the quorum for a meeting of the Board.

(3) The Chairman or, in his absence, member elected, shall preside over a meeting of the Board.

(4) Any matter coming up before a meeting of the Board shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

10. *Vesting and application of Fund.*— The Fund shall vest in, and be held and applied by the Board, subject to provisions, and for the purposes, of this Act.

11. *Functions of Board.*— (1) The Board shall administer the Fund.

(2) In the administration of the Fund, the Board shall, subject to the provisions of this Act and the regulations made thereunder,—

- (a) hold the amount and assets belonging to the Fund in trust;
- (b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;
- (c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payment out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications within five months from the date of receipt thereof;
- (d) record in the minute book of the Board, its decisions on the applications;
- (e) pay to the applicants amounts at the rates specified in the schedule;
- (f) sanction employment of such officers and servants as it may think necessary for performance of its duties and functions under this Act and determine their conditions of service;
- [(g) send such periodical and annual reports, as may be prescribed, to the Government and the Bar Council.]
- [(h)] (g) communicate to the applicants by registered post with acknowledgement due the decisions of the Board in respect of applications of admission or re-admission to the Fund or claims to the benefit of the Fund;

[(i)] (h) do such other acts as are, or may be, required to be done by it under this Act and the regulations made thereunder.

12. *Powers and duties of Secretary.*— The Secretary of the Board shall—

- (a) be the Chief executive authority of the Board and responsible for carrying out its decisions;
- (b) represent the Board in all suits and proceedings for and against the Board;
- (c) authenticate by his signature all decisions and instructions of the Board;
- (d) operate the bank accounts of the Board jointly with the treasurer;
- (e) convene meetings of the Board and prepare their minutes;
- (f) attend the meetings of the Board with all the necessary records and information;
- (g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Board;

(h) inspect and verify periodically the accounts and registers of the Bar Associations regarding the stamps jointly with the treasurer;

(i) prepare an annual statement of business transacted by the Board during each financial year jointly with the treasurer;

(j) make appointments of the Officers and servants of the Board as sanctioned by the Board and have power to take disciplinary action against any such officer or servant;

(k) do such other acts as may be directed by the Board.

13. *Appointment of Officers and servants.*— For carrying out the provisions of this Act, the Board may appoint such officers and servants on such terms and conditions as may be prescribed.

14. *Amounts to be paid out of the Fund.*— All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

15. *Periodical and annual reports to be sent to Government.*— The Board shall send to the Government such periodical and annual reports as may be prescribed.

16. *Maintenance of accounts and audit.*— (1) The Board shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Fund shall be audited annually by such person as may be prescribed or by any other person—
_____ empowered by the Government to perform the functions of an auditor.

(3) After the account of the Fund is so audited, the Board shall send a copy of the auditor's report and balance sheet to the Government.

(4) The Board shall comply with the report of the auditor.

CHAPTER III

Recognition [and registration] of Bar Associations

17. *Recognition [and registration] of Bar Associations.*—

(1) Any association of Advocates duly registered under the Societies Registration Act, 1860 (Central Act No. 21 of 1860) known by any name functioning in any Court or before any Tribunal or before any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes may apply to the Board in the prescribed form for recognition and registration.

(2) Every application for recognition [and registration] shall be accompanied by the rules or bye-laws of the Association, the names and addresses of the office-bearers of the Association and an up-to-date list of the members of the Association showing the name, address, age, date of enrollment and the ordinary place of practice of each member.

(3) The Board may, after such inquiry as it deems necessary, recognise or refuse to recognise the association.

(4) On recognition of such an association, the Board shall issue a certificate of [registration] recognition in the prescribed form.

(5) Any association aggrieved by the decision of the Board under sub-section (3) may prefer an appeal against the said decision to such authority as may be prescribed and the decision of such authority on the appeal shall be final.

(6) The appeal shall be accompanied by—

(a) the order appealed against;

(b) fee of [one] two hundred rupees which shall not be refunded.

(7) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

18. *Duties of Bar Association.*— (1) Every recognised Bar Association shall, on or before the 31st January every year, intimate to the Board a list of its members as on the 31st December of the previous year.

(2) Every recognised Bar Association shall intimate to the Board—

(a) any change of the office-bearers of the Association within thirty days from such change;

(b) any change in the membership, including admissions and re-admissions, within sixty days of such change;

(c) the death, retirement, suspension, cessation of practice of any of its members within ninety days from the date of occurrence thereof; and

(d) such other matters as may be prescribed or required by the Board from time to time.

CHAPTER IV

Membership in the Fund and payment therefrom

19. *Membership of Fund.*— (1) Any Advocate who permanently resides in the State of Goa and practices before any Court or any Tribunal, or any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes in the State and is a member of a Bar Association recognised under section 17, may apply in the prescribed form to the Board for admission as a member of the Fund.

(2) Every application shall be accompanied with a sum of Rs. 300/- towards admission fees.

[(2)] (3) On receipt of an application under sub-section [(1)] (2), the Board shall make such inquiries as it deems fit and either admit the application to the Fund or for reasons to be recorded in writing, reject the application:

Provided that no order rejecting the application shall be passed unless the applicant has been given an opportunity of being heard.

(4) In the event of rejection of an application the admission fee paid alongwith application shall be refunded to the applicant.

[(3)] (5) The applicant whose application is rejected under sub-section [(2)] (3), may prefer an appeal to such authority as may be prescribed and the decision of such authority on the appeal shall be final.

[(4)] (6) The appeal shall be accompanied by the order appealed against.

[(5)] (7) The appeal shall be filed within thirty days from the date of receipt of order appealed against.

(8) Every member shall pay an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:—

Where the standing of the Advocate at the Bar is 5 years or more but less than 15 years.	}	Two hundred rupees.
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Where the standing of the Advocate at the Bar is 15 years or more.	}	Five hundred rupees.
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Where standing of senior Advocate at the Bar practising before High Court is 10 years or more.	}	One thousand rupees.
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20. *Member to appoint nominee and to give notice of cessation of practice, etc.*— (1) Every member of the Fund shall, at the time of admission to the membership of the Fund, make a nomination appointing a nominee in the prescribed manner.

(2) A member may at any time cancel such nomination by sending a notice in writing to the Board, provided that the member shall, alongwith such notice, send a fresh nomination.

(3) Every member who voluntarily suspends practice or ceases to practice or retires shall, within sixty days of such suspension, cessation or retirement, as the case may be, intimate that fact to the Board.

21. *Payment of retirement benefit from Fund.*— (1) A member of the Fund shall, on cessation of practice, be entitled to receive from and out of the Fund an amount at the rate specified in the Schedule.

(2) For calculating the period of completed years of practice for the purpose of payment under this Act, every four years of practice at the Bar, if any, before the admission of a member to the Fund shall be computed as one year of practice and added on to the number of years of practice after such admission:

Provided that in computing the period of practice the period of suspension of practice, either voluntary or otherwise, shall be excluded:

Provided further that in the case of a person who resumes practice after being in Government Service or in any other employment, the period of practice counted for retirement benefit or other service benefits therein, if any, shall not be taken into account.

[(2)] (3) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his [dependents] legal heirs.

Provided that the Board may call for a succession certificate if circumstances so demand.

[(3)] (4) A member of the Fund may opt for retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed.

[(4)] (5) An application for payment from the Fund shall be preferred to the Board in the prescribed form.

[(5)] (6) An application received under sub-section (5) shall be disposed of by the Board after such inquiry as it deems necessary.

CHAPTER V

[Contribution by members to the Fund and the mode of] [payment thereof]

Collection by way of affixing welfare stamp

22. [Advocates to pay contribution to Fund.—] Advocate to affix welfare stamp to Vakalatnama.— Every member of the Fund shall [pay to the Fund a contribution at the rate and in the manner hereinafter provided.] affix Vakalatnama with a stamp of value of Rs. 5/- in addition to the Court fee stamp affixed thereon.

Provided if two or more advocates members of the Fund jointly appear by a single Vakalatnama separate stamps shall be affixed by each of such members of Fund.

Provided further that nothing contained in this section shall apply to Government Advocate, Public Prosecutor, Assistant Public Prosecutor appearing and defending on behalf of Government before any court.

[(2) The contribution to be paid by the member shall be at the rate of five rupees in respect of Vakalatnama presented by him to any Court, including the High Court, Tribunal or other authority or person in the State before which or whom the member is entitled to practice under section 30 of the Advocates Act.]

[(3) The payment of contribution shall be indicated by affixing to the Vakalatnama a stamp of the value of five rupees specially printed under this Act.]

23. Printing and sale of stamps.— (1) The Board shall cause to be printed [and distributed] the Goa Advocates Welfare Fund Stamps each of the value of [four] five rupees with the Emblem and its value inscribed thereon as may be prescribed.

(2) The stamps shall be of the size 2 cm. x 4 cm. and to be sold only to the members of the Fund.

(3) The custody of the stamps shall be with the Secretary of Board.

(4) The Board shall control the distribution and sale of the stamps through the Bar Association.

(5) The Board and the Bar Association shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Association shall purchase the stamps from the Board after paying the value thereof less ten percent of such value towards incidental expenses.

(7) The Secretary of Board shall, after deducting from the sale proceeds of stamps the actual cost of printing and distribution of stamps, pay the amount realised by sale of stamps to the Board within fifteen days after the end of every quarter.

24. Vakalatnama not [acceptable] valid unless stamped.— No member of the Fund shall present to any Court, Tribunal or other authority or person his Vakalatnama unless a stamp is affixed to it under [sub-section (3) of] section 22 and no [Court, Tribunal or authority or person in the State shall accept the] Vakalatnama so presented shall be valid unless it is so stamped.

25. Value of stamps not to be included in costs and not to be collected from clients.— (1) The value of the stamp shall not be included in calculating the costs in the case.

(2) The value of the stamp shall not be collected by the member from his client.

(3) If any member contravenes the provision of sub-section (2), he shall be liable to the Board for appropriate action.

26. Cancellation of stamps.— Every stamp affixed to a Vakalatnama under sub-section (3) of section 22 shall be cancelled in the manner provided in section 30 of the Court-Fees Act, 1870 (Central Act 7 of 1870).

CHAPTER VI

Miscellaneous

27. Group Life Insurance for members and other benefits.— The Board may, for the welfare of the members of the Fund,—

(a) obtain from the Life Insurance Corporation of India, policies of Group Life Insurance for the members of the Fund;

(b) provide for medical and educational facilities for the members of the Fund and their dependents including an insurance for that purpose;

(c) provide for such other benefits and amenities as may be prescribed.

28. *Restriction on alienation, attachment, etc. of interest of member in the Fund.*— (1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member of the Fund or his nominee, [dependants] or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any Court, Tribunal or other authority or person.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.— For the purpose of this section, 'creditor' includes the State or any official assignee or receiver appointed under any law for the time being in force.

29. *Vacancy in Board not to invalidate acts or proceedings.*— No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board.

30. *Protection of action taken in good faith.*— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

(2) No suit or other legal proceeding shall lie against the Board for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

31. *Bar of jurisdiction of Civil Court.*— No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is, by or under this Act, required to be settled, decided or dealt with or to be determined by the Board.

32. *Board to have powers of Civil Courts.*— The Board shall be competent to take evidence on oath and shall exercise all powers of a Civil Court in the summoning of witnesses and the production of documents.

33. *Power to make regulations.*— (1) The Board may, with the previous approval of the Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all matters expressly required or allowed by this Act to be prescribed by this regulation.

[(3) all regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.]

[(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.]

34. *Power to amend Schedule in certain circumstances.*— If the Board recommends to the Government to increase the rate of benefit specified in the Schedule, the Government may, by notification in the Official Gazette, amend the said Schedule so as to increase the rate of benefit as recommended and on the issue of such notification, the said Schedule shall be deemed to be amended accordingly.

[(2) Every such notification shall, as soon as possible after it is issued, be laid before the State Legislature.]

SCHEDULE

(See sub-section (1) of section 21)

Period of standing	Rate of benefit
1	2
30 Years' standing	Rs. 45000
29 Years' standing	Rs. 43500
28 Years' standing	Rs. 42000
27 Years' standing	Rs. 40500
26 Years' standing	Rs. 39000
25 Years' standing	Rs. 37500
24 Years' standing	Rs. 36000
23 Years' standing	Rs. 34500
22 Years' standing	Rs. 33000
21 Years' standing	Rs. 31500
20 Years' standing	Rs. 30000
19 Years' standing	Rs. 28500
18 Years' standing	Rs. 27000
17 Years' standing	Rs. 25500
16 Years' standing	Rs. 24000
15 Years' standing	Rs. 22500
14 Years' standing	Rs. 21000
13 Years' standing	Rs. 19500
12 Years' standing	Rs. 18000
11 Years' standing	Rs. 16500
10 Years' standing	Rs. 15000
9 Years' standing	Rs. 13500
8 Years' standing	Rs. 12000
7 Years' standing	Rs. 10500
6 Years' standing	Rs. 9000
Upto	
5 Years' standing	Rs. 7500

LA/B/2072/1996

Report of the Select Committee on Bill No. 30 of 1995

The Goa Flower and Fruit Nurseries (Regulation) Bill, 1995

alongwith the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 8th August, 1996, is hereby published for general information in pursuance of the provisions of Rule 231 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

(Bill No. 30 of 1995)

A

BILL

to provide for the regulation of flower and fruit Nurseries in the State of Goa and for matters incidental thereto.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

Shri Dayanand G. Narvekar — Minister for Agriculture

MEMBERS

1. Shri Krishna Kuttikar
2. Shri Aleixo Sequeira
3. Shri Pandurang Bhatale
4. Shri Prakash Velip
5. Shri Shripad Naik
6. Smt. Victoria Fernandes
7. Shri Pandu Vasu Naik
8. Shri Vishnu Prabhu

SECRETARIAT

1. Shri A. B. Ulman, Secretary, Legislature
2. Shri U. M. Desai, Under Secretary, Legislature
3. Shri S. A. Narvekar, Section Officer
4. Shri U. D. Bicholkar, Sr. Assistant

GOVERNMENT REPRESENTATIVES

- | | |
|--------------------------|---|
| 1. Shri Vivek Rae, | — Secretary, Agriculture |
| 2. Shri B. S. Subbanna | — Law Secretary |
| 3. Shri P. B. Hawaldar | — Director of Agriculture |
| 4. Shri K. G. Sharma | — Dy. Director (Hort.), Agriculture Department |
| 5. Shri Minguel Braganza | — Agriculture Officer (Hort.), Agriculture Department |

Report of the Select Committee

1. I, the Chairman of the Select Committee to which Bill No. 30 of 1995— The Goa Flower and Fruit Nurseries (Regulation) Bill, 1995, was referred, having been authorised by the Committee to submit the report on its behalf, present its report with the Bill as amended by the Committee annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 12-12-1995 and was referred to Select Committee on 14-12-1995.

3. The Committee held in all four sittings namely on 9-2-96, 24-2-96, 6-3-96 and 9-4-96. As decided by the Committee, the suggestions/comments were invited from the public/Institution/Associations including Nurserymen's Associations by issuing Press Note in the local dailies. The suggestions were also invited from the Members of the Legislative Assembly. The Proprietors of the various nurseries in Goa were called before the Committee to seek their suggestion/opinions on the Bill. viz. (1) M/s. Farmer Nursery, Guirim (2) Vikas Nursery, Dhargal (3) Sagar Nursery, Nanoda (4) M/s. Vishal Nursery, Sal and (5) Rodney's Roses and Garden Centre, Seraulim.

4. The Committee also visited the Sagar Nursery at Nanoda, Vikas Nursery at Dhargal, M/s. Farmer Nursery at Guirim to acquaint with the functioning of the Nurseries.

5. Consequent to the change in the title of the Bill, it is proposed to cover all plants and vegetative propagation materials of all fruits, flower and foliage ornamental plants. The bill provides for the regulation of fruit and ornamental plants nurseries in the State of Goa including the assurance of quality in the plant materials sold in Goa for cultivation or export and the protection of local nurserymen from unfair trade practices by out-station, unregistered nurseries.

6. So far, nursery trade in Goa has remained unorganised. This bill will enable Government to exercise its control on the growing trade in plant material in the State. Once the proposed registration system under this Bill is available, the exact number of nurseries operating in Goa will be known. A tentative list of nurseries is appended at Annexure-I.

7. About fifty six percent of Goa's cropped area is under horticultural crop cultivation. Cashew (50,000 hectares), Coconut (25,000 hectares) and Mango (4,000 hectares), are the major crops. The Government is implementing programmes to increase the productivity of these crops in the existing area. It is, therefore, essential to maintain the purity of varieties recommended for cultivation in Goa (NARP Agroclimatic Zone-12, Sub-Zone 1-coastal hilly region) and ensure the supply of only healthy, vigorous plant material to the growers.

8. Cut-flower and foliage trade in Goa is estimated at Rupees two crores annually. This cut-flower trade is not sought to be directly regulated by this bill. Only transport regulation under section 8 would be applicable. However, it is necessary to boost local flower and foliage production to meet a large segment of the demand. Select varieties of high value, tropical flowers and foliage can also be grown exclusively for exports. This bill seeks to protect the local growers from sale of spurious or diseased plant material.

9. The turnover on sale of planting material in Goa is substantial. About six lakhs Cashew grafts worth rupees seventy two lakhs are sold annually by three nurseries based in Bicholim Taluka. Two lakhs Coconut seedlings worth rupees thirty lakhs and approximately one lakh mango graft worth rupees twenty lakhs are sold each year throughout Goa by large and small nurseries.

10. Ornamental plants like crotons, dracaenas, palms, ferns are multiplied in Goa. New varieties of ornamental plants are generally brought in from the neighbouring States. Direct import of plants from other countries have not yet began in Goa. Roses, chrysanthemums, anthuriums, gladioli, crossandra, marigolds and jasmines are grown in Goa. Anthuriums and orchids have been identified as high-potential, high value flower crops for cultivation in Goa.

11. The Committee has scrutinised and examined the suggestions/comments/opinions of the Members of the Assembly, proprietors of the nurseries and Nursery Men's Association. During the clause by clause examination of the Bill, the Committee has taken into consideration the various aspects of the suggestions and accordingly draft report was prepared.

TITLE AND PREAMBLE

The Committee decided to change the title of the bill as "The Goa Fruit and Ornamental Plant Nurseries (Regulation) Bill, 1995" to have the wider scope of control of the Government over the various nurseries in the State. This was found necessary as ornamental plant nurseries in Goa deal largely in foliage ornamental plants with smaller quantities of flowering ornamental plants. Accordingly, the words "Flower and Fruit" wherever they occur in the Bill have been substituted as "Fruit and Ornamental Plant".

Clause-2

The Committee decided that in clause 2 before existing sub-clause (a) the following sub-clause should be added; and accordingly the existing sub-clause from "(a) to (e)" have been re-numbered as "(b) to (f)", as the Appellate Authority was not specifically mentioned in the Bill.

"(a)" "Appellate Authority" means any officer of the Government not below the rank of Secretary to the Government appointed by notification in the Gazette for the purpose of Section 12".

The clause 12 and clause 21 may be accordingly amended.

Clause-2

After sub-clause (f) following new sub-clause has been added and accordingly existing sub-clauses "(f) to (m)" have been re-numbered as "(h) to (o)".

"(g). "Nursery" means any fruit and/or ornamental plant nursery or tissue culture unit in Goa where fruit and/or ornamental plants are in regular course of business propagated and sold for transplantation or cultivation but does not include a nursery belonging to, or managed by the Government".

The text of the definition in Section 2(i) has been modified to add the words "foliage ornamental" after the word "flowers".

Clause-4

The Committee decided to substitute the clause 4 by following clause, as it required re-drafting for technical reasons.

4. "Owner of every nursery to obtain licence: — No owner of a nursery shall, after the expiry of six months from the date of commencement of this Act, sell or conduct or carry on the business of fruit or ornamental plant nursery except under and in accordance with a licence obtained by him under the provisions of this Act. In case the owner has more than one nursery whether in the same town or village or different towns and villages he shall obtain a separate licence in respect of each such nursery".

Clause-5

In clause 5(4) for the words "three" the Committee decided to substitute the words "five", so as to raise the validity of licence period.

Clause-6

In clause 6(h) for the words "ten" the Committee decided to substitute the words "five", so as to reduce the period of maintenance of records.

Clause-9

The Committee decided that in clause 9(b) for the words "any variety" the words "the notified species" be substituted, so as to enable Government to fix the prices only in respect of the notified species of plants.

This report was considered and adopted by the Committee.

Assembly Hall,
Panaji, 6th May, 1996.

SHRI DAYANAND G. NARVEKAR
Minister for Urban Development
Chairman

(Note.— Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined).

The Goa [Flower and] Fruit and Ornamental Plant Nurseries (Regulation)
Bill, 1995

(Bill No. 30 of 1995)

A

BILL

to provide for the regulation of [flower and] fruit and ornamental plant nurseries in the State of Goa and for matters incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa [Flower and] Fruit and Ornamental Plant Nurseries (Regulation) Act, 1995.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “Appellate authority” means an Officer of the Government not below the rank of Secretary to the Government appointed by notification in the Gazette for the purpose of Section-12.

(b) [(a)] “Competent authority” means a person or authority appointed under section 3 of the Act;

(c) [(b)] “Director” means the Director of Agriculture of the Government;

(d) [(c)] “Government” means the Government of Goa;

(e) [(d)] “Inspecting Officer” means any Officer not below the rank of Agricultural Officer or Zonal Agriculture officer authorised by the Director for the purpose of inspection of nurseries;

(f) [(e)] “Notification” means a notification published in the Official Gazette;

(g) “Nursery” means any fruit and /or ornamental plant nursery or tissue culture unit in Goa where fruit and/or ornamental plants are in regular course of business, propagated and sold for transplantation or cultivation but does not include such a nursery belonging to, or managed by the Government.

(h) [(f)] “Nursery-man” means any person engaged in the production and sale of [flower and] fruit and ornamental plants;

(i) [(g)] “Official Gazette” means the Official Gazette of the Government;

(j) [(h)] “Plant material” means any propagation material used in raising the plant and includes budwood, scion, rootstock, seed and cutting;

(k) [(i)] “ [Flower and] fruit and ornamental plant” means any plant, which gives flowers foliage ornamental or edible fruits or nuts and includes budwood, seedlings, grafts, layers, bulbs, seeds, suckers, rhizomes and cutting of any such plant;

(l) [(j)] "Owner" in relation to a [flower and] fruit and ornamental plant nursery, means the person who, or the authority which, has the ultimate control over the affairs of such [flower and] fruit and ornamental plant nursery, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the [flower and] fruit and ornamental plant nursery;

(m) [(k)] "Prescribed" means prescribed by rules made under this Act;

(n) [(l)] "Rootstock" means a [flower and] fruit and ornamental plant or part thereof on which any portion of [flower and] fruit and ornamental plant has been grafted or budded;

(o) [(m)] "Scion" means a portion of a [flower and] fruit and ornamental plant which is grafted or budded on to a rootstock.

3. *Appointment of competent authorities.*— The Government may, by notification in the Official Gazette,—

(a) appoint such persons as it thinks fit, being Gazetted Officers of the Government, to be competent authority for the purpose of this Act; and

(b) define the limits within which the competent authority shall exercise the powers conferred and perform the duties imposed thereon by or under this Act.

[4. *Owner of every flower and fruit nursery to obtain licence.*— No owner of flower and fruit nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes the owner of such nursery, whichever is later, conduct or carry on the business of flower and fruit nursery, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder. In case an owner has more than one flower and fruit nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such nursery.]

4. *"Owner of every nursery to obtain licence.*— No owner of a nursery shall, after the expiry of six months from the date of commencement of this Act, sell or conduct or carry on the business of fruit or ornamental plant nursery except under and in accordance with a licence obtained by him under the provisions of this Act. In case the owner has more than one nursery whether in the same town or village or different towns and villages he shall obtain a separate licence in respect of each such nursery"

5. *Application for grant of licence.*— (1) Every application for licence shall be made to the competent authority in such form and manner and accompanied by such licence fee as may be prescribed.

(2) On receipt of such application, the competent authority shall make such inquiry as it considers necessary and if he is satisfied,—

(a) that the [flower and] fruit and ornamental plant nursery is suitable for proper propagation of [flower and] fruit and ornamental plants in respect of which licence has been applied for;

(b) that the applicant is competent to conduct or establish any such [flower and] fruit and ornamental plant nursery;

(c) that the applicant fulfils all other conditions as may be prescribed;

(d) that the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security deposit, if any, shall grant the licence in the prescribed form.

(3) If the competent authority is not satisfied, it may, after giving a reasonable opportunity of being heard, refuse to grant the licence, after recording the reasons for such refusal, and shall furnish to the applicant a copy of order made thereunder.

(4) Every licence granted under this section shall be valid for a period of ~~five~~ [three] years from the date of issue and may, on an application made to it, be renewed from time to time by the competent authority for such period and on payment of such fee in such manner and on the fulfilment of such conditions as may be prescribed.

(5) Where the competent authority refuses to renew a licence, it shall record in writing the reasons for such refusal and furnish a copy thereof to the applicant:

Provided that no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

6. *Duties of licence holder.*— Every licence holder under this Act shall,—

(a) undertake to multiply only such varieties of the [flower and] fruit and ornamental plants specified in the licence in respect of scion or rootstock, for propagation and sale as may be directed by the competent authority;

(b) keep a complete record of the origin or source of every rootstock and every scion showing;

(i) the botanical name, together with the local name, if any, of the rootstock used;

(ii) the botanical name, together with the local name, if any, of the scion used in raising the [flower and] fruit and ornamental plants;

(c) keep a lay out plan showing the position of every rootstock and scion tree employed in raising the [flower and] fruit and ornamental plants;

(d) keep the nursery plots as well as the parent trees used for the propagation of [flower and] fruit and ornamental plants free from insects, pests or plant diseases;

(e) undertake to prepare the [flower and] fruit and ornamental plants in such manner as may be directed by the competent authority.

(f) display in a conspicuous manner on a label the name of every variety of [flower and] fruit and ornamental plant enclosed in any package intended for sale, its age as determined in the prescribed manner and the name of the rootstock together with that of scion of every such plant;

(g) maintain a register in the prescribed form showing the name of the [flower and] fruit and ornamental plant sold to any person, its age, the name of the rootstock and scion budwood and the name and address of the person purchasing it, and shall produce the record for inspection on demand by Director or Inspecting Officer,

(h) preserve the register for at least [ten] ~~five~~ years after the date of conclusion of the sale of the [flower and] fruit and ornamental plants;

(i) undertaken to release for sale or distribution only such [flower and] fruit and ornamental plants which are completely free from any kind of insect, pests or plant disease; and

(j) keep the plant as well as the progeny tree used for the production of nursery plants free from such insects, pests or diseases as may be prescribed.

7. *Only licensed plant material to be utilised for propagation.*—

(a) The plant material utilised for propagation shall be only such for which licence has been granted.

(b) The scion variety and rootstock to be propagated in the nursery shall be those which are approved by the Horticulture Department or Agriculture Department of the Government, from time to time.

(c) The vegetatively propagated plant material shall be in direct propagation to the availability of rootstock (Vegetative propagation, if any) and scion wood with the nursery-man.

(d) The nursery-man shall maintain a map showing the details of the fields or beds and the kind of varieties of plants in each bed including that of seedlings as well as budded and grafted plant materials.

(e) The nursery-man shall maintain a register in the prescribed form wherein the performance of the progeny trees shall be recorded.

(f) The competent authority may declare mother trees as unfit for use, if it is satisfied that use of such a tree material shall not be in the interest of [flower and] fruit and ornamental plant industry on account of the following reasons.

- (i) poor quality of [flower and] fruits and ornamental plant;
- (ii) poor [flower and] fruit and ornamental plant bearing capacity;
- (iii) infected with insects, pests and diseases which cannot be cured;
- (iv) any other reason which may be considered fit by the competent authority in the interest of [flower and] fruit and ornamental plant industry.

(g) The nursery-man shall quarantine such trees and shall not use their budwood for further propagation and should there be a danger of the spread of the insect, pest or diseases to other nurseries and nursery plants, these trees may be ordered to be destroyed by the competent authority and the nursery-man shall carry out these orders accordingly. Such orders shall also apply to the supply of plant material.

8. *Power of Government to regulate or prohibit import, export or transport of certain [flower and] fruit and ornamental plants.*— The Government may, for the purpose of maintaining the quality of any [flower and] fruit and ornamental plants grown in any part of the State or to protect them from injurious insect, pest or plant disease, by notification in the Official Gazette, regulate or prohibit, subject to such restriction and conditions as it may impose, the bringing into or taking out of the State or any part thereof, otherwise than across the customs frontiers, as defined by the Central Government, or the transport within the State, of any [flower and] fruit and ornamental plants of unknown pedigree or affected by any infectious or contagious diseases or pests.

9. *Power to cancel or suspense licence.*— (1) The competent authority may suspend or cancel any licence granted or renewed under section 5 on one or more of the following grounds, namely:—

(a) that he has parted, in whole or in part, within his control over the [flower and] fruit and ornamental nursery, or has otherwise ceased to conduct or hold such [flower and] fruit and ornamental nursery; or

(b) that where the maximum rate or price for the notified species [any variety] of any [flower and] fruit and ornamental plants has been fixed by the Government by notification, he has sold any such [flower and] fruit and ornamental plant at a higher rate or price; or

(c) that he has, without reasonable cause, failed to comply with any of the terms and conditions, of the licence or any directions lawfully given by the competent authority or has contravened any of the provisions of this Act or the rules made thereunder; or

(d) if, the licensee has applied to be adjudicated or has been adjudicated an insolvent; or

(e) if in the opinion of the competent authority, that he has become incompetent to conduct or possess such [flower and] fruit and ornamental plant nursery; or

(f) if he has refused to surrender or produce his licence or the registers and other records required to be maintained under this Act or the rules made thereunder, to the competent authority or any person authorised by it; or.

(g) any other prescribed grounds.

(2) The competent authority may suspend the licence pending the passing of cancellation order in respect thereof under sub-section (1).

(3) Before passing an order under sub-section (1), the competent authority shall inform the licensee about the grounds on which it proposes to take action and give him a reasonable opportunity of showing cause against such action.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

10. *Return of licence.*— On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling a licence, the licensee shall return the licence to the competent authority:

• Provided that, the competent authority may after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the owner to enable him to wind up his [flower and] fruit and ornamental plant nursery.

11. *Issue of duplicate licence.*— If a licence granted to an owner is lost, destroyed, mutilated, or damaged, the competent authority shall, on application and payment of prescribed fee, issue a duplicate licence.

12. *Appeals.*— (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence, or suspending or cancelling a licence, may appeal in such form and manner, within such period, and to [such] the appellate authority [as may be prescribed:] as notified by the Government.

Provided that, the appellate authority may entertain the appeal after expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the provisions of section 13, be final.

13. *Revision.*— (1) The Government may, suo moto or on an application made to it by an aggrieved person, at any time, for the purpose of satisfying itself, as to the legality or propriety of any order passed under this Act, call for and examine the records of any case and may pass such order thereon as it thinks fit:

Provided that, the Government shall not exercise the powers conferred on it by this section, in respect of an order against which an appeal preferred under section 12 is pending, or, upon application in case an appeal has not been preferred before the expiry of the time limit therefor:

Provided further that, the Government shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(2) An order passed under this section shall be final.

14. *Powers of entry and inspection of nurseries.*— (1) For the purpose of ascertaining the position and examining the working of any [flower and] fruit and ornamental plant nursery or for any other purpose mentioned in this Act, or the rules made thereunder, the competent authority or any person authorised by it or by the Government in this behalf, shall have the right at all reasonable hours and with or without assistants,—

(a) to enter into any [flower] nursery and to inspect or examine the [flower and] fruit and ornamental plants therein;

(b) to order the production of any account book, register, records or other documents, relating to such nursery and take or cause to be taken extracts from or copies of such documents;

(c) to ask all necessary questions and examine any person having control of, or employed in connection with, such nursery.

(2) The licensee, and all persons employed in connection with the nursery, shall afford the competent authority or the authorised person all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief, to produce documents in their possession and to furnish such other information in relation to the [flower and] fruit and ornamental plants nursery as may be required by such authority or person.

15. *Penalties.*—If any person,—

(a) contravenes any of the provisions of this Act, or of any rule made thereunder, the contravention of which is made punishable under this section; or

(b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed upon him by or under this Act,

he shall on conviction, be punished with fine which may extend to one thousand rupees, or imprisonment for a term which may extend to one month, or with both.

16. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against, and punished accordingly:

Provided that, nothing contained in this sub-section shall render any person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section,—

(a) 'Company' means any body corporate and includes a firm or other association of individuals;

(b) 'director' in relation to a firm, means a partner in the firm.

17. *Cognizance of offence.*—No Court shall take cognizance of any offence punishable under this Act except on the report in writing of the facts constituting such offence made by the competent authority or any officer authorised by the Government in this behalf.

18. *Jurisdiction of Court.*—No Court inferior to that of a Judicial Magistrate of the First Class, shall try any offence punishable under this Act or rules made thereunder.

19. *Officers and persons exercising powers under this Act to be public servants.*—(1) All Officers appointed under this Act and every person authorised to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against the Government or any officer thereof for anything which is in good faith done or intended to be done in pursuance of any powers conferred under this Act or any rules made thereunder.

20. *Powers to delegate.*— The Government may, by notification in the Official Gazette and subject to such restriction and conditions as may be specified therein, authorise any officer subordinate to it, to exercise any power under this Act except the power to make rules under section 21.

21. *Power to make rules.*— (1) The Government may, by notification in the Official Gazette, and subject to condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any, of the following matters, namely:—

- (a) the form in which and manner of making application for licence;
- (b) the fee and security deposit for grant of licences and renewal thereof, the period for which, the conditions subject to which and the form in which licence may be granted under section 5;
- (c) the grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under section 9;
- (d) the manner of determination of age of [flower and] fruit and ornamental plant kept for sale;
- (e) maintenance of register;
- (f) specifying the names of insects, pests, and diseases from which progeny trees are to be kept free from;
- (g) the fee payable in respect of duplicate licence under section 11;
- (h) the form and manner in which, the period within which [and the authority to which] an appeal may be made under section 12, and the procedure to be followed by the appellate authority in disposing of the appeal; and
- (i) any other matter which is to be or may be prescribed.

ANNEXURE—I

Tentative List of Nurseries in Goa

Name & Address	Type of plants
I. Pernem Taluka	
1. M/s. Vikas Nursery Prop. Shri R. U. P. Dessai, Dhargal, P. O. Colvale Phone-291353.	Coconut, Mango, Chickoo, Bread-fruit, roses, jasmines and other ornamentals.
2. Shri Arun R. Dessai Naikwada, Torshem, Pernem-Goa.	Cashew
3. Shri Gopal Hari Naik, Naikwada, Torshem-Pernem-Goa.	Cashew

Name & Address	Type of plants
II. Bicholim Taluka:	
1. M/s. Sagar Nursery, Prop. Shri Anand G. Falari Nanoda, P. O. Assonora, Phone-385363, 385371.	Cashew, Mango, Coconut
2. M/s. Vishal Nursery, Prop. Shri Vivek Naik, Varchawada, Sal, P.O. Assonora, Phone (02363) 77641.	Cashew, Mango
3. M/s. Siddharth Nursery, Prop. Shri Sharadchandra Zarapkar, Sal-P. O. Assonora-Goa.	Cashew
4. M/s. Madanath Nursery, Maulinguem, P. O. Bicholim-Goa.	Mango
III. Satari Taluka:	
1. Shri Rajaram Phadtye Near Forest Nursery, Veluz.	Cardamom
2. M/s. Lakhanpal Farms, Manager, Deepak Mane, Phone-229776.	Gladioli, Roses
IV. Ponda Taluka:	
1. M/s. Nihar Rose Nursery, Prop. Shri Milind Bharve, Poultry World, Usgao-Goa.	Roses, Tuberoses
2. M/s. Himgiri Nursery, Prop. Smt. Seema Kamat, Near Govt. Coir Factory Madkai Road, Kundaim-Goa.	Mango, Ornamental Plants, Lawn
3. M/s. Saras Nursery, Prop. Smt. Alice Sirsat, Tisk-Ponda-Goa.	Ornamental Plants
V. Bardez Taluka:	
1. M/s. Mr. Farmer, Prop. Shri Rozendo Mendonsa, NH-17, Guirim, Phone-251064, 221445.	Roses, Lawn, Ornamental Plants
2. M/s. Greenscape, Prop. Shri Daniel Ferrao, Near Cine Alankar, Mapusa-Goa, Ph. 250743.	Coconut, Ornamental Plants, Lawns
3. M/s. Jenny Nursery, Prop. Shri Anthony D'Souza, Monte Villa (behind Guirim Church), Sangolda, Bardez-Goa.	Coconut, Mango and Ornamental Plants
4. M/s. Apurbai Nursery, Prop. Smt. E.V. Borges, Gongurem, Assagao, P. O. Mapusa-Goa.	Spices, Graft Coconut and Ornamental plants

Name & Address	Type of plants
5. M/s. Lulu's Farm, Prop. Shri Vincente D'Souza, Opposite the Church, Anjuna, Bardez-Goa.	Ornamental Plants
6. M/s. Eden, Prop. Shri Michael Andrade, Val, Assagao, Bardez-Goa.	Anthuriums Gladioli, DXT Coconuts
7. M/s. Flowers & Foliage, Prop. Shri Joseph D'Souza, Near the Church, Saligao, Bardez-Goa.	Anthurium
8. M/s. Lia Cila Nursery, Prop. Shri Joseph Pinto, Bastora, Bardez-Goa, Ph-251224.	Roses and Ornamental Plants
9. Shri Cajetan Costa, Bonglo, Tivim, Bardez-Goa.	Roses
10. M/s. Flora & Gardens, Prop. Shri V. Azavedo, Doswaddo, Socorro, Bardez-Goa.	Roses and Ornamental Plants
11. M/s. Green Valley Nursery, Prop. Shri Francis Dantas, Assagao (Mazalvado) Mapusa-Goa, Ph-252083.	Chrysanthemum, Bougainvillea and Ornamental Plants
VI. Tiswadi Taluka:	
1. M/s. Django Dan Nursery, Goa Velha, Tiswadi Goa.	Ornamental Plants
2. M/s. Garden Glory, Prop. Shri Alex Alphonso, Near Ferry Jetty, Panaji-Goa, Ph-230139-43052	Tissue Cultured Plants, bulbs, and seeds of Ornamental Plants (IAHS & Pocha Seeds)
3. M/s. Plants & Foods, Prop. Shri Francis Noronha, Near Gomantak Bhavan, Santa Cruz-Panaji-Goa, Ph-220612.	Ornamental Plants
4. M/s. Darde's, Prop. Shri. Ashok Dande, Nagali Taleigao-Goa, Phone —	Anthuriums and Ornamental Plants
5. M/s. Raju Nursery, Prop. Shri Tanu Navelkar, Ela-Old-Goa.	Coconut, Mango and Ornamental Plants
6. Shri Luis Silveira, Near the Church, Madel, Chorao-Goa.	Ornamental Plants
VII. Salcete Taluka	
1. M/s. Rodney Roses & Garden Centre, Prop. Shri Rodney Almeida, Seraulim, P.O. Colva, Salcete-Goa, Ph-730469.	Anthuriums, Roses and Ornamental Plants

Name & Address	Type of plants
2. M/s. Kakoda Farms, Prop. Shri N. Alphonsa, Abade Faria Road, Margao-Goa, Phone-731037.	Mango, Roses, Ornamental Plants and Seeds
3. M/s. Hariyali Nursery, Prop. Dr. Venkatesh Prabhudessai, Cruz Mansio, Margao-Goa, Phone —	Ornamental Plants
4. M/s. Marialyn Nursery, Prop. Shri Mariano M. Menezes, Assolna, Salcete-Goa.	Mango, Cashew and Ornamental Plants

VIII. Mormugao Taluka :

1. M/s. Vijay Nursery, Prop. Shri C. P. Gowda, Airport Road (W) Chicalim, P. O. Vasco da Gama, Ph-514234.	Ornamental Plants
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IX. Sanguem Taluka :

1. Shri Venkatesh K. P. Dessai, Kelvon-Colomb, Rivona, Sanguem-Goa.	Coconut.
2. M/s. Deodita Farms, Prop. Shri Miguelino Costa, Near Forest Colony, Sanguem-Goa.	Coconut

X. Quepem Taluka :

1. M/s. Purnanand Nursery, Kakoda, Quepem-Goa.	—
2. M/s. Mudreshwar Nursery, Quepem-Goa.	—

Department of Law and Judiciary

Legal Affairs Division

Notification

10/5/96/LA

The Payment of Bonus (Amendment) Act, 1995 (Central Act 34 of 1995), which has been passed by Parliament and assented to by the President of India on 30th August, 1995 and published in the Gazette of India, Extraordinary Part II, Section I, dated 30th August, 1995 is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 4th March, 1996.

The Payment of Bonus (Amendment) Act, 1995

AN
ACT

further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Payment of Bonus (Amendment) Act, 1995.

(2) It shall be deemed to have come into force on the 1st day of April, 1993.

2. *Amendment of section 2.*— In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as 21 of 1965. the principal Act), in clause (13), for the words “two thousand and five hundred rupees”, the words “three thousand and five hundred rupees” shall be substituted.

3. *Amendment of section 12.*— In section 12 of the principal Act, for the words “one thousand and six hundred rupees” at both the places where they occur, the words “two thousand and five hundred rupees” shall be substituted.

4. *Repeal and saving.*— (1) The Payment of Bonus Ord. 8 of (Amendment) Ordinance, 1995 is hereby repealed. 1995.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Notification

10-5-96/LA

The Research and Development Cess (Amendment) Act, 1995 (Central Act 45 of 1995), which has been passed by Parliament and assented to by the President of India on 16th December, 1995 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 18th December, 1995 is hereby published for general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 1st April, 1996.

The Research and Development Cess (Amendment) Act, 1995

AN

ACT

to amend the Research and Development Cess Act, 1986.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

1. *Short title and commencement.*—(1) This Act may be called the Research and Development Cess (Amendment) Act, 1995.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*— In section 2 of the Research and Development Cess Act, 1986 (hereinafter referred to as the principal Act),—

(i) for clauses (a) to (c), the following clauses shall be substituted, namely:—

“(a) “Board” means the Technology Development Board constituted under the Technology Development Board Act, 1995;

(b) “cess” means the cess levied under section 3;”;

(ii) in clause (e), for the words “is approved by the Central Government”, occurring at the end, the following shall be substituted, namely:—

“is approved or automatically approved in accordance with the Industrial Policy of the Government of India in force from time to time”.

3. *Amendment of section 4.*— In section 4 of the principal Act,—

(i) for the expression “Development Bank”, the expression “Board” shall be substituted;

(ii) for the expression “Fund”, the expression “Board” shall be substituted.

4. *Omission of sections 5 and 6.*— Sections 5 and 6 of the principal Act shall be omitted.

5. *Amendment of sections 8 and 9.*— In sections 8 and 9 of the principal Act, for the expression “Development Bank”, wherever it occurs, the expression “Board” shall be substituted.

Department of Transport

Notification

6/27/95-TPT

The following draft Amendment Rules which the Government of Goa proposes to make in exercise of the powers conferred by sections 26, 28, 38, 65, 95, 96, 107, 111, 138, 159, 176 and 213 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and all other powers enabling it in that behalf, is hereby published as required by section 212 of the said Act for the information of the persons likely to be affected thereby and notice is hereby given that the said draft Amendment will be taken up for consideration on the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

All objections and suggestions to the said draft Amendment rules may be forwarded to the Under Secretary to the Government of Goa, Transport Department, Secretariat, Panaji, Goa, before the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

DRAFT RULES

In exercise of the powers conferred by sections 26, 28, 38, 65, 95, 96, 107, 111, 138, 159, 176 and 213 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and all other powers enabling it in that behalf, the Government of Goa hereby makes the following rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called Goa Motor Vehicles (Amendment) Rules, 1996.

(2) They shall come into force at once.

2. *Amendment of Rule 2.*— In the Goa Motor Vehicles Rules, 1991 (hereinafter referred to as the ‘Principal Rules’), in rule 2, after clause (c), the following clause shall be inserted, namely:—

“(Ca) ‘Deputy Director of Transport’ means any officer appointed by the Government to perform the function of the Deputy Director of Transport under the Act or these rules or the rules framed by the Central Government”.

3. *Amendment of rule 3.*— For rule 3 of the principal rules, the following shall be substituted, namely:—

“3. *Licensing Authority.*— The Licensing Authority for any area shall be the Deputy Director or the Assistant Director of Transport, as the case may be, authorised by the Government to perform the functions of Licensing Authority.”

4. *Amendment of rule 14.*— In sub-rule (4) of Rule 14 of the principal Rules, for the words “rupees twenty”, the words “rupees one hundred” shall be substituted.

5. *Amendment of rule 24.*— In sub-rule (3) of rule 24 of the principal Rules, for the words “rupees ten” and “twenty rupees”, the words “rupees twenty” and “forty rupees” shall be respectively substituted.

6. *Amendment of rule 26.*— For rule 26 of the principal Rules, the following shall be substituted, namely:—

“26. *Licensing Authority.*— The Licensing Authority for any area shall be the Deputy Director or the Assistant Director of Transport, as the case may be, authorised by the Government to perform the functions of the Licensing Authority.”

7. *Amendment of rule 31.*— In clause (iii) of rule 31 of the principal Rules, for the figures and words “VIII Std.” the figures and words “Xth Std.” shall be substituted.

8. *Amendment of rule 37.*— In sub-rule (4) of rule 37 of the principal Rules, the words and figures “Rs. 10/-”, the words and figures “Rs. 50/-” shall be substituted.

9. *Amendment of rule 38.*— In sub-rule (3) of rule 38 of the principal Rules, for the words and figures “Rs. 10/-”, the words and figures “Rs. 50/-” shall be substituted.

10. *Amendment of rule 40.*— In sub-rule (1) of rule 40 of the principal Rules,—

(i) for the words and figures “Rs. 10/-”, wherever it occurs, the words and figures “Rs. 20/-” shall be substituted;

(ii) for the words and figures “Rs. 20/-”, the words and figures “Rs. 40/-”, shall be substituted.

11. *Amendment of rule 42.*— For rule 42 of the principal Rules, the following shall be substituted, namely:—

“42. *Registering Authority.*— The Registering Authority for any area shall be the Deputy Director or the Assistant Director of Transport, as the case may be, authorised by the Government to perform the functions of Registering Authority.”

12. *Amendment of rule 45.*— In rule 45 of the principal Rules, for sub-rule (8), the following shall be substituted, namely:—

“(8) The fee for grant or renewal of temporary registration shall be rupees hundred for two and three wheelers, rupees two hundred fifty for light motor vehicles and rupees three hundred for other vehicles”

13. *Amendment of rule 76.*— For rule 76 of the principal Rules, the following shall be substituted, namely:—

“76. *Permit Fees.*— (1) Subject to the provisions of these rules, the fees in respect of an application for the grant or renewal of a permit or a countersignature on a permit shall be:—

For the grant of a permit or a countersignature of permit or renewal in respect of:—

(a) Motor cycles and autorickshaws	Rs. 50/-
(b) Taxis.....	Rs. 100/-
(c) Transport Vehicles other than (a) and (b) above.....	Rs. 200/-

Provided that, no fees shall be charged under this sub-rule in respect of an application for countersignature where the State has entered into a reciprocal agreement with any other State for exemption from the payment of such fees.

(2) The fees in respect of an application for a permit for tourist vehicle shall be Rs. 200/- and the fee for the renewal of such permit shall be Rs. 125/-.

(3) The fee in respect of an application for a national permit shall be Rs. 200/- and the fee for the renewal of such permit shall be Rs. 125/-.

(4) The fee in respect of an application for a temporary permit or countersignature on a temporary permit shall be Rs. 20/- for each calendar month or part thereof (in respect of each vehicle).

(5) The fee in respect of an application for replacement of a vehicle covered by a state carriage permit, Goods Carriage or a contract carriage permit to which the provisions of sub-rule (2) of rule 89 apply, shall be Rs. 100/-.

14. *Amendment of rule 94.*— In sub-rule (5) of rule 94 of the principal Rules, for the words and figures “Rs. 20/- (twenty rupees)” and “Rs. 15/-”, the words and figures “Rs. 40/- (forty rupees)” and “Rs. 20/-” shall be respectively substituted.

15. *Amendment of rule 123.*— In sub-rule (1) of rule 123 of the principal Rules, in clause (c), after the words “halting at the stand”, the following words shall be inserted namely:—

“and that if any such breach is committed or where the owner, driver or person in-charge of a vehicle refuses to comply with any lawful direction given by the Manager of the stand and if the vehicle is already entered in the stand, take all possible steps to remove such vehicle from the stand”.

16. *Amendment of rule 142.*— In sub-rule (8) of rule 142 of the principal Rules, for the words “rupees two hundred” and “rupees one hundred” the words “rupees one thousand” and “rupees two hundred and fifty” shall be respectively substituted.

17. *Amendment of rule 151.*— For rule 151 of the principal Rules, the following shall be substituted, namely:—

“151. *Fees for licence, etc.*— The fee for the grant or renewal of licence or supplementary licence or for a duplicate thereof, shall be:—

(a) for grant of a licence	Rs. 1000/-
(b) for grant of supplementary licence of each additional establishment	Rs. 500/-
(c) for renewal of a licence if application is made within time:—	
(i) Principal licence	Rs. 200/-
(ii) Each supplementary licence	Rs. 50/-
(d) for renewal of licence if application is not made within time:—	
(i) Principal licence	Rs. 500/-

- (ii) For each supplementary licence Rs. 75/-
(e) For issue of a duplicate copy of:—
(i) Principal licence Rs. 30/-
(ii) Each supplementary licence Rs. 20/-

18. *Amendment of rule 185.*— For sub-rule (2) of rule 185 of the principal Rules, the following shall be substituted, namely:—

“(2) Every entrance or exit of a stage carriage shall be fitted with doors which shall be capable of opening outside while entry or exit of a passenger and which could be securely locked while the vehicle is in motion so as to prevent passengers from falling out.”

19. *Amendment of rule 275.*— For rule 275 of the principal Rules, the following shall be substituted, namely:—

“275. *Application for compensation.*— An application for compensation arising out of accident of the nature specified in sub-section (1) of section 165 shall be made by a person specified in sub-section (1) of section 166, at his option, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business, or within the local limits of whose jurisdiction the defendant resides, and shall be in Form COMP. A. and shall contain the particulars specified in that Form.”

20. *Substitution of Form.*— For the existing Form P. Co. S. P. A. appearing in First Schedule to the principal Rules, the following form shall be substituted, namely:—

“Form P. CO. S. P. A.
[See Rule 72 (1) (vi)]

Application for a special permit in respect of a contract carriage under section 88 (8)

To,

The Director/Assistant Director of Transport

In accordance with the provisions of sub-section (8) of section 88 of the Motor Vehicles Act, 1988, I, the undersigned, hereby apply for a special permit in respect of a public service/ private service vehicles as hereunder set out:—

- (1) Full name _____
(Surname) (Name)

(Father's/Husband's name)
(2) Full address, H. No. _____
Road/Lane _____
Name of Locality _____
City/Town _____ Pin _____
Tel. No. if any _____

- (3) Route or routes or area for which permit is desired with itinerary _____
(4) Period for which it is required (place and time of departure of the vehicle for the proposed trip) _____
(5) Registration mark of the vehicle _____
(a) Chassis No. _____
(b) Engine No. _____
(c) Vehicle is taxed upto _____ in the State of _____
(d) Particulars of taxes paid to other States if the vehicle has taken permit under section 88 (8) in the past one month period to the date of application (proof to be enclosed).
(6) Seating Capacity _____
(7) Particulars of the permit, if any, under which the vehicle is already covered and the authority by which it is issued, _____
(8) List of passengers (in duplicate) containing name, age and full address of the passengers to be enclosed. In case the list is not available at the time of application, the list shall be prepared before the departure of the vehicle and should be got attested from the officer of the border checkposts and an attested copy shall be forwarded to the permit sanctioning authority within 3 days from the date of arrival from the tour.
(9) Name and address of the leader of the group or such other person who has engaged the vehicle on contract with the holder of the permit in relation to the said vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum.

Date: _____ 19

Place: _____

Signature or thumb impression of
the applicant.”

By order and in the name of the Governor of Goa.

Celina Dias e Caldeira, Under Secretary (Transport).

Panaji, 2nd July, 1996.

Corrigendum

In the Notification from Department of Labour No. 25/4/88-ILD(etc) dated 1-8-1996 published in the Official Gazette, Series I No. 19 dated 8-8-1996 (Extraordinary No. 2), at page 235 in Column 3 of the schedule in the 3rd line read “Rs. 910/- per month” instead of “Rs. 910/- per day”.